

## **REMARKS/ARGUMENTS**

After Applicant filed a *Pre-Appeal Brief Request for Review*, the Examiner reopened prosecution and recently issued a non-final *Office Action* on 06 April 2010. By the *Office Action*, Claims 1-2, 4-17, 19, and 75-77 are pending in the Application, and all pending claims are rejected. Applicant thanks the Examiner with appreciation for the careful consideration and examination.

By the present *Response*, Claims 1-2, 4-17, 19, and 75-77 remain pending in the Application. Specifically, Claims 1, 4-17, 19, and 75-77 remain as previously presented, Claim 2 is currently amended, and Claims 2-3, 18, and 20-74 remain canceled. No new matter is believed introduced by this submission, as the amendment to Claim 2 is supported at least by the originally-filed Claim 2.

Applicant submits this *Response* solely to facilitate prosecution. As such, Applicant reserves the right to present new or additional claims in this Application that have scope similar to, or broader than, those originally filed. Applicant also reserves the right to present additional claims in a later-filed continuation application that have scope similar to, or broader than, those originally-filed. Therefore, any amendment, argument, or claim cancellation is not to be construed as abandonment or disclaimer of subject matter.

It is respectfully submitted that the present Application is in condition for allowance for at least the reasons set forth below.

### **I. Applicant's Claims Are Nonobvious over the Cited Combinations**

Claims 1-2, 4-17, 19, and 75-77 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over certain combinations of cited references. More specifically, (a) Claims 1-2 and 4-10 are rejected over U.S. Patent No. 5,300,943 to Jakobs in view of U.S. Patent No. 6,064,373 to Ditzik; (b) Claims 75 and 77 are rejected over Jakobs; (c) Claim 76 is rejected over Jakobs in view of Ditzik, and further in view of U.S. Patent App. Pub. No. 2003/0206164 to Juenger; and (d) Claims 11-17 and 19 are rejected over Jakobs in view of Ditzik, and further in view of U.S. Patent App. Pub. No. 2003/0001825 to Omura.

Applicant respectfully disagrees with these rejections at least because the cited combinations fail to disclose the following nonobvious features of Applicant's claims:

- “the positioning element counterbalances the weight of the interactive display by applying an upward force to counteract a downward force of the interactive display, thereby allowing for the continuous level of vertical adjustment of the interactive display with an upward repositioning force of less than about 25 pounds” (Claim 1);
- a positioning assembly to “counterbalance weight of the interactive display by applying an upward force to counteract a downward force of the interactive display, thereby allowing for vertical adjustment of the interactive display with an upward repositioning force of less than about 25 pounds” (Claim 77);
- “wherein the upward repositioning force ranges from about 1.0 ounce to about 3 pounds” (Claim 2); and
- “the positioning assembly enabling positioning of the interactive display in a continuous range between the bottom height and the top height, wherein the interactive display is positionable at any height between the bottom height and the top height” (Claim 75).

Regarding the above recitations of Claims 1 and 77, related to counterbalancing to allow for a continuous level of vertical adjustment of the interactive display with an upward repositioning force of less than about 25 pounds, the Examiner admits that Jakobs, the Examiner’s primary cited reference, fails to disclose these recitations. *Office Action*, pp. 2-3. Further, the Examiner does not assert that *any* of the cited references disclose this recited feature of Applicant’s claims. Instead, the Examiner alleges that is obvious to add this feature to the Jakobs. *Id.* at 3. Applicant respectfully disagrees that it is obvious to modify Jakobs, or the cited combinations as a whole, to include this recitation at least because (1) the manner of making such a modification is not obvious, and (2) there is no suggestion in the cited references or the prior art to make such a modification.

First, it is not obvious to modify Jakobs and the cited combinations as a whole to add the recited counterbalancing, because the manner of making such a modification would be indiscernible to one skilled in the art. Jakobs discloses a workstation designed to address various drawbacks in conventional displays. Jakobs 3:31-36. Because the focus of Jakobs is on the various computing features of the workstation and not on the means of adjustment, “well-known” adjustment mechanisms are provided, and little disclosure is given on how such adjustments could be achieved. *Id.* at 8:29-35. Without specific indication as to how the

adjustment mechanism of Jakobs operates, it is not obvious how to modify that adjustment mechanism to include counterbalancing to effect a continuous level of vertical adjustment, as recited.

Further, there is no suggestion in the cited references or the prior art to modify Jakobs to include the recited counterbalancing. Whether counterbalancing in the recited manner might be beneficial to Jakobs is not indicative of whether the Examiner's proposed modification of Jakobs would have been obvious *at the time of the invention*. There is no suggestion in the prior art that the manner of counterbalancing recited was known and combinable with Jakobs at the time of the invention, particularly given Jakobs' bulkiness. Thus, the Examiner's motivation to modify Jakobs in this manner is based on improper hindsight. *See* MPEP § 2141.01(III).

Second, the Examiner's alleged reasoning for modifying the cited combinations would not suggest to one skilled in the art to provide the recited counterbalancing feature. According to the Examiner, it is obvious to add the above recitation of the claims to the cited combinations "because Jakobs et al. disclose the adjustment can be made to the angle and the vertical height of the work surface. A wide range of angular adjustments allows one to choose the most comfortable and efficient work surface angle." *Office Action*, p. 3. Applicant submits, however, that the fact that Jakobs discloses some form of adjustment for a workstation in no way suggests that counterbalancing in the recited manner could be integrated into the workstation or, if integrated, would be at all beneficial to the adjustment mechanism provided in the workstation. Thus, the Examiner's alleged reasoning for modifying Jakobs would not motivate one skilled in the art to make this modification.

Regarding the recitation in Claim 2 of "wherein the upward repositioning force ranges from about 1 ounce to about 3 pounds," the Examiner admits that Jakobs fails to disclose this recitation. *Office Action*, p. 3. But the Examiner alleges that it is obvious to add this feature to the cited combinations because this feature can allegedly be achieved by "a mere change in weight of a system." *Office Action*, pp. 3-4. Applicant respectfully disagrees with this allegation at least because, regardless of whether a weight change would achieve this recitation, it is not obvious to change the weight of the system in this case.

Changing the weight of the system of Jakobs, as combined with the other references, is not obvious given the characteristics of Jakobs. Jakobs discloses a bulky workstation including three displays, as well as various internal components to support those displays. Jakobs 7:64-8:3

& 5:50-6:24. As shown in Fig. 1 of Jakobs, the combination of multiple displays creates a large, bulky workstation. This bulkiness is necessary given the workstation's purpose of providing multiple displays to overcome the drawbacks of each individual display. Jakobs 1:39-63 & 5:34-49. According to the laws of physics, lifting an object upward requires application of a force at least as great as the force applied downward by the object, i.e., generally the weight of the object. Thus, in order to enable the bulky workstation of Jakobs to be vertically readjusted with an upward force of about 1 ounce to 3 pounds, one would have to modify that bulky workstation so that it weighed about 1 ounce to 3 pounds. It is both nonobvious and unrealistic to lighten the workstation of Jakobs to this degree.

Regarding the above recitation of Claim 75 that "the positioning assembly enabling positioning of the interactive display in a continuous range between the bottom height and the top height, wherein the interactive display is positionable at any height between the bottom height and the top height," the Examiner admits that this recitation is not disclosed by Jakobs, the primary reference. *Office Action*, p. 5. To overcome this admitted deficiency of Jakobs, the Examiner alleges that Jakobs can be modified to provide the recited continuous range of vertical adjustment, because Jakobs provides some form of vertical adjustment in a range between seated height and standing height. *Id.* at 5. Applicant respectfully submits, however, that the fact that Jakobs discloses some form of adjustability in a range, without details as to how adjustability is effected, does not suggest that the adjustability can be modified to provide a continuous level of vertical adjustment, wherein the interactive display is positionable at any height between a bottom height and a top height. Given the little information provided in Jakobs, it is possible that the workstation can be adjusted only to discrete predetermined heights between the seated height and the standing height, and that the mechanics of the adjustability prevent modification to a continuous level of vertical adjustment. Insufficient information is given in Jakobs to support the Examiner's proposed modification.

Additionally, as discussed above, Jakobs provides no specific description of the adjustment mechanism of the workstation. Without specific indication as to how the adjustment mechanism of Jakobs operates, it is not obvious how to modify that adjustment mechanism to include the recited continuous level of vertical adjustment, and it is further nonobvious whether the adjustment mechanism is even capable of being modified to include this recited feature.

Claims 1-2, 75, and 77 are patentable over the cited art at least because of their recitations discussed above. Applicant's remaining dependent claims, Claims 4-17, 19, and 76, are patentable over the cited combinations at least by virtue of their dependence on Applicant's independent claims, Claims 1, 75, and 77, and also for the additional limitations recited by these dependent claims. Thus, Applicant believes that all pending claims are allowable and respectfully requests withdrawal of the § 103 rejections.

## **II. Fees**

No fees are believed due with this submission. This *Response* is being filed within six months of the *Office Action*, and more specifically within three months. Accordingly, no extension of time fee is believed due. The numbers of total and independent claims remain less than those paid for upon filing, so no claim fees are believed due. Nonetheless, the Commissioner is expressly authorized to charge any unpaid fees, or credit any overpayment, to Deposit Account No. 20-1507 for acceptance of this submission.

### **CONCLUSION**

This *Response* is believed a complete response to the *Office Action* of 06 April 2010. By this *Response*, Claims 1-2, 4-17, 19, and 75-77 are pending in the Application for examination purposes, and the Application has been placed in full condition for allowance. It is respectfully requested that the rejections be withdrawn and that the case be processed to issuance in accordance with Patent Office business.

Should the Examiner have any further questions or reservations, the Examiner is invited to telephone the undersigned Attorney at 404.885.3178.

Respectfully submitted,

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